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Before the  
**Federal Communications Commission**  
Washington, D.C. 20554

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MAY 28 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	MM Docket No. 97-116
	)	RM-9050
Amendment of Section 73.202(b)	)	RM-9123
(Table of Allotments)	)	
FM Broadcast Stations	)	
	)	
Everglades City, LaBelle, Estero	)	
and Key West, Florida	)	
To: Chief, Mass Media Bureau		
Policy and Rules Division		
Allocations Branch		

**SECOND STATEMENT FOR THE RECORD**

InterMart Broadcasting West Coast, Inc. ("InterMart"), licensee of WWWD(FM), LaBelle, Florida, by its attorneys, hereby respectfully files its Second Statement for the Record in connection with the Commission's *Notice of Proposed Rule Making* ("NPRM"), 12 FCC Rcd 4212 (released April 18, 1997),<sup>1</sup> that proposed to allot Channel 224A to Everglades City, Florida, as its first local service. On May 4, 1999, InterMart filed its Statement for the Record and Request for Expedited Consideration in this docket which notified the Commission's Allocations Branch that WBIY(FM), Labelle, Florida, had filed an application for license to cover permit. InterMart observed that one of the two factors that must be demonstrated in order to change a station's community of license in a rule making proceeding is that the rule making must not deprive a community of an

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<sup>1</sup> The counterproposal is mutually exclusive with the proposal to allot Channel 224A to Everglades City. InterMart is separately seeking leave to file this pleading.

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List A B C D E

existing service representing its only local transmission service. See *Modification of FM and TV Authorizations (New Community of License)*, 4 FCC Rcd 4870 [66 RR 2d 877] (1989).

InterMart reported that on November 23, 1998, the Commission granted to Toccoa Falls College a construction permit (File No. BPED-970407MF) for a new noncommercial FM station, WBIY, LaBelle, Florida. The WBIY facilities have been constructed. **On May 20, 1999, the Commission issued a license for WBIY** (File No. BLED-990426KE.) A copy of page one of the WBIY license is attached as Attachment A. Thus, the Commission can now act on InterMart's request to assign Channel 223C3 to Estero, since LaBelle will not be deprived of its only local transmission service if WWWD relocates to Estero, Florida.

WHEREFORE, InterMart again respectfully requests the Commission promptly to amend Section 73.202(b) of the Commission's Rules, as follows:

Florida

	<u>Present</u>	<u>Proposed</u>
LaBelle	223C3	(202A)*
Estero	----	223C3
Key West	223C1	224C1

Respectfully submitted,

**INTERMART BROADCASTING  
WEST COAST, INC.**

By: Gary S. Smithwick  
Gary S. Smithwick  
Its Attorney

**SMITHWICK & BELENDIUK, P.C.**  
1990 M Street, N.W.  
Suite 510  
Washington, D.C. 20036  
(202) 785-2800

May 28, 1999

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\*WBIY assigned to this channel.

**ATTACHMENT A**



United States of America  
**FEDERAL COMMUNICATIONS COMMISSION**  
**FM BROADCAST STATION LICENSE**

Official Mailing Address:

-----  
TOCCOA FALLS COLLEGE  
FALLS ROAD  
TOCCOA FALLS, GA 30598  
-----

Authorizing Official:

*Arthur E. Doak*-----

Arthur E. Doak  
Senior Engineer  
Audio Services Division  
Mass Media Bureau

Grant Date: **MAY 20 1999**

Facility ID: 86109  
Call Sign: WBIY

This license expires 3:00 a.m.  
local time, February 01, 2004

License File No.: BLED-990426KE

This license covers Permit No.: BPED-970407MF

Subject to the provisions of the Communications Act of 1934, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this license, the licensee is hereby authorized to use and operate the radio transmitting apparatus herein described.

This license is issued on the licensee's representation that the statements contained in licensee's application are true and that the undertakings therein contained so far as they are consistent herewith, will be carried out in good faith. The licensee shall, during the term of this license, render such broadcasting service as will serve the public interest, convenience, or necessity to the full extent of the privileges herein conferred.

This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequency designated in the license beyond the term hereof, nor in any other manner than authorized herein. Neither the license nor the right granted hereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934. This license is subject to the right of use or control by the Government of the United States conferred by Section 606 of the Communications Act of 1934.

Name of Licensee:

TOCCOA FALLS COLLEGE

Station Location:

FL-LA BELLE

**CERTIFICATE OF SERVICE**

I, Angela Y. Powell, a paralegal in the law offices of Smithwick & Belendiuk, P.C.,  
certify that on this 28th day of May 1999, copies of the foregoing were mailed to the following:

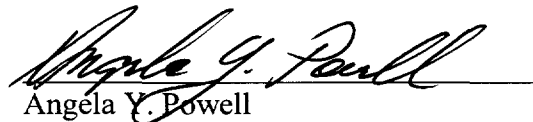
Ms. Kathleen Scheuerle (\*)  
Federal Communications Commission  
The Portals II  
445 Twelfth Street, S.W.  
Room 3-A247  
Washington, D.C. 20554

Radio Station WEOV  
Clear Channel Metroplex Licensees, Inc.  
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Tavernier, FL 33070

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Washington, D.C. 20006  
(Counsel for Clear Channel)

  
Angela Y. Powell

(\*) by hand